

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

MNSD

### **Introduction**

This hearing dealt with an application by the tenant for a monetary order for the amount of the security deposit and compensation under section 38. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on December 03, 2008 and deemed to have been served by December 09, 2008 in accordance to section 89 of the Residential Tenancy Act (*RTA*), the tenant did not participate in the conference call hearing.

### **Issue(s) to be Decided**

Is the tenant entitled to the monetary amounts claimed?

### **Background and Evidence**

The undisputed facts before me, under solemn affirmation by the applicant, are as follows.

The tenancy began on May 01, 2006 and ended on November 05, 2008. The landlord collected a security deposit of \$300 at the outset of the tenancy. On November 05, 2008, and again on November 10, 2008 the landlord had received and was in

possession of the tenant's forwarding address in writing and request for the return of the security deposit.

**Section 38(1)** of the Act provides as follows:

38(1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

38(1)(a) the date the tenancy ends, and

38(1)(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

38(1)(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

38(1)(d) file an application for dispute resolution to make a claim against the security deposit or pet damage deposit.

### **Analysis**

I find that the landlord failed to repay the security deposit, or to make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing and is therefore liable under section 38(6) which provides:

38(6) If a landlord does not comply with subsection (1), the landlord

38(6)(a) may not make a claim against the security deposit or any pet damage deposit, and

38(6)(b) **must pay the tenant double the amount of the security deposit**, pet damage deposit, or both, as applicable.

The landlord currently holds a security deposit of **\$300** and was obligated under section 38 to return this amount together with the **\$9.42** in interest which had accrued. The amount which is doubled is the \$300 base amount of the deposit before interest.

## **Conclusion**

I find that the tenant has established a claim for **\$609.42**. I grant the tenant an order under section 67 for the sum of **\$609.42**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated January 23, 2009